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EXAMINER	
SEREBOFF, NEAL	

ART UNIT	PAPER NUMBER
3626	

NOTIFICATION DATE	DELIVERY MODE
02/23/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Patents@chadbourne.com

Office Action Summary	Application No.	Applicant(s)	
	10/625,049	LAWRENCE, DAVID	
	Examiner	Art Unit	
	NEAL R. SEREBOFF	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 May 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16 and 18-34* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16 and 18-34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/18/2010 has been entered.

Response to Amendment

2. In the amendment dated 5/18/2010, the following has occurred: Claims 1, 33, and 34 have been amended.

3. Claim 17 has been previously canceled. Claims 1 – 16 and 18 – 34 are pending.

Notice to Applicant

4. The Applicant has argued the now Amended limitation, "structure the gathered data according to risk criteria and the data relating details of the long term care transaction." The Examiner includes additional sections from the Applicant's specification here as a basis for the rejection and response to arguments below. (**emphasis added**)

5. Regarding the idea of gathering:

Page 8, lines 3 – 11

Referring now to Fig. 1 a block diagram of some embodiments of the present invention is illustrated. An RMC system 106 gathers and receives information which may be related to Risk variables associated with a LTC. Information may be received, for example, from publicly available sources 101-105, subscribers 111, investigation entities, or other sources 107. The information can be constantly updated and can be related to LTC, a LTC facility, a LTC provider, such as a parent corporation, or other LTC related subject or LTC related alert list in order to facilitate due diligence or other research efforts. **The RMC system 106 facilitates due diligence**

on the part of a subscriber 111 by gathering, structuring and providing to the subscriber 111 data that relates to Risk variables involved in a designated LTC subject.

Page 10, lines 5 – 18

Information gathered from the diversity of data sources can be aggregated into a 25 searchable data storage structure 108. Some embodiments can include receiving and storing a source of information. In some instances a subscriber 111 may wish to receive information regarding the source of information received, such as, for example, if a subscriber wishes to pursue obtaining additional related information; ascertain the veracity of the information; check to see how current the information is; determine credibility of the source or other reason. **Gathering data 108 into an aggregate data structure 108, such as a data warehouse can allow a RMC system 106 to have the data 108 readily available for processing a Risk management search associated with a Risk subject**. Aggregated data 108 can also be scrubbed or otherwise enhanced.

In some embodiments including enhanced data, data scrubbing can be utilized to implement a data warehouse comprising the aggregate data structure 108. Data scrubbing can access information from multiple databases and store it in a manner that gives more efficient more flexible access to key facts. Scrubbing can facilitate expedient access to accurate data commensurate with a critical decision that may be based upon a Risk management assessment provided.

Page 19, lines 1 – 4

The PRM server 211 includes one or more databases 225 storing data relating to proprietary Risk management. The RMC server 210 and the PRM server 211 may interact with and/ or gather data from an operator of a system access device 220-224 226 228 or other source. **Data received may be structured according to Risk criteria and utilized to calculate a Risk quotient**.

Page 20, lines 11 and 12

The RMC server 210 can aggregate the data received according to LTC Risk variables 312 or according to any other data structure conducive to fielding LTC related Risk.

Page 20, line 18 through page 21, line 4

All data received can be combined and aggregated 312 to create an aggregate source of data which can be accessed to perform Risk management activities. Combining data can be accomplished by any known data manipulation method. For example, the data can be maintained in separate tables and linked with relational linkages, or the data can be gathered into on comprehensive table or other data structure. In addition, if desired, information received can be associated with one or more variables including a number of violations received during inspections and the type of violation; a quantity of complaints filed and the reason for such complaints; any fines levied against a LTC facility and/ or provider; employment history of a key

employee of a LTC provider; a record of conviction for any employee of an LTC provider; types of services offered by a LTC provider; cost of care at an LTC facility; financial statements relating to a LTC facility or LTC provider; any records relating to bankruptcy associated with an LTC provider, or other data.

Page 24, lines 6 – 11

Referring now to Fig. 6, a portion of a data structure that can be utilized with some embodiments of the present invention is illustrated. The data structure 600 can include, for example, a data field for storing risk variables 602, a data field for storing a LTC provider 604, a data filed for storing a description of a publication or other document description 606, a data field for storing a description of an identification of a source of information 608, or other data fields. Data structures 600 can include relational data, hierarchical data, flat files or other formats known in the arts.

Based upon the Applicant's specification, gathering data is storing data within a database.

6. Regarding Risk Quotient and Risk Criteria:

Page 6, lines 24 and 25

Risk Quotient: Risk Quotient refers to a quantitative value of an amount of Risk, a Risk Quotient can be based upon a weighted algorithm applied to the Risk criteria and informational artifacts.

Page 17, lines 11 – 22

Some embodiments can also include a value rating, such as a risk quotient which can be generated to readily indicate a level of risk associated with a particular risk subject. The risk quotient can be based upon a weighted algorithm applied to the risk variables or other factors. The risk quotient can be made available on a periodic basis, on demand in real time, in response to an event such as an inquiry a placement or an investment; or according to some other request. Actions commensurate with a risk level can be presented to assist with proper risk management.

If desired, embodiments can include a comparison of risk related data and risk quotients for disparate entities. The comparison can include data and sources of the data as well as a risk quotient value rating of an amount of risk that can be associated with each risk subject. Risk can be mitigated by the association of a risk subject with risk variables that contain less inherent risk, such as a public organization subject to reporting requirements, or a facility associated with a LTC provider that enjoys an excellent reputation.

Page 19, lines 1 – 4, shown above. The Examiner notes that this is the only reference within the specification that describes "structure the gathered data according to risk criteria" as claimed

below. Additionally, "risk criteria" only appears within the specification 2 times: page 6, lines 24 and 25 above and page 19, lines 1 – 4 also above.

7. Regarding Risk Quotient, the Examiner understands this to be weighted relationship between risk criteria. As the Applicant has not defined risk criteria, nor given examples that potentially could limit the risk criteria, the Examiner understands risk criteria broadly. The Examiner therefore understands risk criteria as any value that could influence a long term care transaction.

Claim Rejections - 35 USC § 102

8. **Claim 1 – 16, 18 – 27, 30 and 32 – 34** are rejected under 35 U.S.C. 102(e) as being anticipated by Fogel et al., U.S. Patent Number 6,542,905.

9. As per claim 1, Fogel teaches a computer-implemented method for managing risk related to a long term care, the method comprising:

- Indicating in a computer system that an entity is a long term care entity according to the entity's status as at least one of: a long term care provider or a long term care facility operator (figure 1, nursing facility);
- Gathering data into the computer system generally related to one or more long term care entities (column 8, lines 9 – 46 where data is submitted for an audit and column 13, lines 9 - 55);
- Receiving data into the computer system descriptive of details of a long term care transaction wherein the data received comprises identification data for at least one long term care entity (column 17, lines 14 – 19, admission information);

- structuring via the computer system the gathered data according to risk criteria (column 24, line 66 – column 25, line 13 logical, clinical, and statistical relationships, column 26, lines 48 – 67 updating gathered data and further column 2, lines 17 – 39, legal liability column 8, lines 9 – 26 correct errors and improve documentation) and the data relating details of the long term care transaction (column 6, lines 8 - 13 diagnosis or treatment and further column 1, lines 38 – 50, column 2, lines 10 - 16, column 15, line 41 – column 16, line 50 reimbursement or fees relating to diagnosis and treatment);
- Calculating via the computer system a risk quotient by referencing the structured data (column 4, lines 18 – 31, column 24, lines 54 – 65, and column 26, lines 18 - 47); and
- Generating a report via the computer system comprising the risk quotient and at least some of the structured data referenced to calculate the risk quotient (column 4, lines 18 – 31 and column 24, lines 54 – 65 where a report is generated).

10. As per claim 2, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method wherein the long term care transaction comprises a financial investment in at least one of: a long term care facility and a long term care provider (column 16, lines 33 – 50, payment by insurance company).

11. As per claim 3, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method wherein the long term care transaction comprises an admittance to a long term care facility (column 9, lines 7 – 26).

12. As per claim 4, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method wherein the risk quotient comprises an indication of a cost to defend an adverse position (column 14, lines 5 – 39 where “cost to defend” is not defined with Pre-Grant

Publication paragraph 24 and therefore is considered to be the financial impact of the current program. The value of the risk quotient is considered non-functional descriptive information and therefore has no patentable weight).

13. As per claim 5, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method wherein the risk quotient comprises an indication an amount of reputational risk ("reputational risk" as explained with Pre-Grant Publication paragraph 24 is considered to be the "harm that a Risk Bearing Institution or Transaction Participant may suffer regarding its professional standing in an industry or the public eye." Column 14, lines 5 – 39 where the amount of harm is considered to be the financial impact of the current program. The value of the risk quotient is considered non-functional descriptive information and therefore has no patentable weight).

14. As per claim 6, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method wherein the risk quotient comprises an indication of an amount of regulatory risk ("regulatory risk" is not defined nor quantified by the instant application. Column 4, lines 1 - 17 where the score is useful within regulation. The value of the risk quotient is considered non-functional descriptive information and therefore has no patentable weight).

15. As per claim 7, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method wherein the risk quotient comprises an indication of an amount of legal risk ("legal risk" is not defined nor quantified by the instant application. Column 2, lines 27 – 50 where the score is useful for determining legal liability. The value of the risk quotient is considered non-functional descriptive information and therefore has no patentable weight).

16. As per claim 8, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method wherein the risk quotient comprises an indication of an amount of risk associated with monetary costs related to potential fines ("risk associated with monetary costs related to potential fines" is not defined nor quantified by the instant application. Column 20, lines 40 – 67 where the monetary costs relate to lack of payments and so the fine is the failure to reimburse the institution. The value of the risk quotient is considered non-functional descriptive information and therefore has no patentable weight).

17. As per claim 9, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method wherein the gathered data comprises data descriptive of one or more world events which is received via a news feed (The stored news data represents non-functional descriptive information. Abstract where data is stored)

18. As per claim 10, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method wherein the gathered data comprises at least one government advisory (Figure 1, #36 and the gathered data represents non-functional descriptive information).

19. As per claim 11, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method wherein calculating the risk quotient criteria comprises a value determined by the steps of:

- Associating a numerical weight with each of a plurality of risk variables (figure 1, # 26 and # 34);
- Associating one or more of the risk variables with the data descriptive of details of a long term care transaction (figure 1, #28 and #36);

- Determining a numerical value based upon the content of the data descriptive of details of a long term care transaction associated with the one or more risk variables (figure 1, #26); and
- Multiplying the numerical value based upon the content times the numerical weight associated with each of the risk variables associated with the data descriptive of details of a long term care transaction (figure 1, #24, grade).

20. As per claim 12, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method additionally comprising the steps of presenting the report as evidence of due diligence to at least one of: a regulatory body, a shareholder and a news media (column 21, lines 41 – 46).

21. As per claim 13, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method additionally comprising the step of generating a suggested action based upon the risk quotient and at least some of the structured data referenced to calculate the risk quotient (column 26, lines 48 – 67 where the report suggests fixes).

22. As per claim 14, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method wherein the data gathered comprises data relating to a personnel employed by a long term care provider (column 21, lines 11 – 36).

23. As per claim 15, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method wherein the data gathered comprises data relating to patient welfare (column 4, lines 1 – 17).

24. As per claim 16, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method additionally comprising the steps of:

- Associating one or more statutes or regulations with the long term care transaction (column 16, lines 51 through column 17, line 3, Medicare regulations); and
- Transmitting a description of the associated statute with the data (This step is not performed as the preceding step was for a regulation. Therefore, this step has no patentable weight. Additionally, if the current step were limiting, although not, the statute description would be considered non-functional descriptive information).

25. As per claim 18, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method wherein the report comprises a record of conviction of an employee or owner of a long term care facility (column 4, lines 18 – 32 where a report is provided and the information within the report is considered non-functional descriptive information and therefore has no patentable weight).

26. As per claim 19, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method wherein the report comprises data descriptive of fines levied against a long term care facility or complaints filed against the facility (column 4, lines 18 – 32 where a report is provided and the information within the report is considered non-functional descriptive information and therefore has no patentable weight).

27. As per claim 20, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method wherein the report comprises one or more sources of the gathered data (column 4, lines 18 – 32).

28. As per claim 21, Fogel teaches the method of claim 20 as described above. Fogel further teaches the method wherein the source comprises an investigation firm (column 4, lines 18 – 32 where a report is provided and the information within the report is considered non-functional

descriptive information and therefore has no patentable weight. The source of data is non-functional when changing the data source does not effect the result).

29. As per claim 22, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method additionally comprising the step of transmitting an image of a document comprising data associated with the long term care transaction (column 2, lines 40 – 50 where documents may be scanned).

30. As per claim 23, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method wherein report does not comprise any content created or developed by a provider of the system implementing the method for managing risk associated with long term care (column 4, lines 18 – 32 where a report is provided and the information within the report is considered non-functional descriptive information and therefore has no patentable weight).

31. As per claim 24, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method additionally comprises the steps of:

- Receiving a request for an alert (The Examiner is using the examples provided in paragraph 54 to understand the meaning of "alert." As such, the Examiner understands that an alert is an automated response based upon a trigger. Column 27, lines 46 – 54, trigger text box);
- Monitoring the gathered data (column 27, lines 7 – 16); and
- Transmitting a notification of new information received associated with the long term care risk subject (column 27, lines 7 – 54).

32. As per claim 25, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method wherein the data is gathered into a risk management clearinghouse ("Risk

management clearinghouse" is understood, by figure 1 to be a database. The name of the database is considered to be non-functional descriptive information. Abstract).

33. As per claim 26, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method wherein the data descriptive of details of a long term care transaction is received by a proprietary risk management system (The Examiner is using the Collins definition of proprietary to understand that this is a system owned by an individual or company. Abstract).

34. As per claim 27, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method wherein at least one of: the gathered data and the data descriptive of details of a long term care transaction; comprise data provided by a long term care recipient (column 3, lines 31 – 40 and column 27, lines 31 – 45, resident assessment data).

35. As per claim 30, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method additionally comprising the step of augmenting at least one of: the gathered data and the data descriptive of details of a long term care transaction; via data mining (column 6, lines 50 – 58 where researchers access the data).

36. As per claim 32, Fogel teaches the method of claim 1 as described above. Fogel further teaches the method wherein structuring the gathered data and the data relating details of the long term care transaction according to risk quotient criteria comprises relevance ranking (column 6, lines 39 – 49 where a scale is a rank and column 11, line 66 through column 12, line 3).

37. As per claim 33, Fogel teaches a computerized system for managing risk associated with long term care, the system comprising:

- A computer server accessible with a system access device via a communications network (column 1, lines 8 – 17 and column 3, line 51 through column 4, line 17); and

- processor executable instructions stored on the server and executable on demand (column 3, lines 62 – 67), the processor executable instructions operative with the server to cause the system to:
    - Indicate in a computer system that an entity is a long term care entity according to the entity's status as at least one of: a long term care provider or a long term care facility operator (figure 1, nursing facility);
    - Gather data into the computer system generally related to one or more long term care entities (column 8, lines 9 – 46 where data is submitted for an audit and column 13, lines 9 - 55);
    - Receive data into the computer system descriptive of details of a long term care transaction (column 17, lines 14 – 19)
        - Wherein the data received comprises identification data for at least one long term care entity (column 17, lines 14 – 19, admission information);
        - structure the gathered data according to risk criteria (column 24, line 66 – column 25, line 13 logical, clinical, and statistical relationships, column 26, lines 48 – 67 updating gathered data and further column 2, lines 17 – 39, legal liability column 8, lines 9 – 26 correct errors and improve documentation) and the data relating details of the long term care transaction (column 6, lines 8 - 13 diagnosis or treatment and further column 1, lines 38 – 50, column 2, lines 10 - 16, column 15, line 41 – column 16, line 50 reimbursement or fees relating to diagnosis and treatment);

- Calculate a risk quotient by referencing the structured data (column 4, lines 18 – 31, column 24, lines 54 – 65, and column 26, lines 18 - 47); and
- Generate a report comprising the risk quotient and at least some of the structured data referenced to calculate the risk quotient (column 4, lines 18 – 31 and column 24, lines 54 – 65 where a report is generated).

38. As per claim 34, Fogel teaches a computer executable program code residing on a computer-readable medium, the program code comprising instructions for causing the computer to:

- Indicate in a computer system that an entity is a long term care entity according to the entity's status as at least one of: a long term care provider or a long term care facility operator (figure 1, nursing facility);
- Gather data into the computer system generally related to one or more long term care entities (column 8, lines 9 – 46 where data is submitted for an audit and column 13, lines 9 - 55);
- Receive data into the computer system descriptive of details of a long term care transaction (column 17, lines 14 – 19)
  - Wherein the data received comprises identification data for at least one long term care entity (column 17, lines 14 – 19, admission information);
  - structure the gathered data according to risk criteria (column 24, line 66 – column 25, line 13 logical, clinical, and statistical relationships, column 26, lines 48 – 67 updating gathered data and further column 2, lines 17 – 39, legal liability column 8, lines 9 – 26 correct errors and improve documentation) and the data relating

details of the long term care transaction (column 6, lines 8 - 13 diagnosis or treatment and further column 1, lines 38 – 50, column 2, lines 10 - 16, column 15, line 41 – column 16, line 50 reimbursement or fees relating to diagnosis and treatment);

- Calculate a risk quotient by referencing the structured data (column 4, lines 18 – 31, column 24, lines 54 – 65, and column 26, lines 18 - 47); and
- Generate a report comprising the risk quotient and at least some of the structured data referenced to calculate the risk quotient (column 4, lines 18 – 31 and column 24, lines 54 – 65 where a report is generated).

Claim Rejections - 35 USC § 103

39. **Claims 28 and 29** are rejected under 35 U.S.C. 103(a) as being unpatentable over Fogel et al., U.S. Patent Number 6,542,905 in view of Thompson et al., U.S. Pre-Grant Publication 2002/ 0103834.

40. As per claim 28, Fogel teaches the method of claim 1 as described above.

Fogel does not explicitly teach the method additionally comprising the step of enhancing the gathered data.

However, Thompson further teaches the method additionally comprising the step of enhancing the gathered data (figure 3, spell check and correcting and paragraphs 471 – 480).

It would have been obvious to one of ordinary skill in the art at the time of the invention to add this feature to Fogel. One of ordinary skill in the art at the time of the invention would have added this feature

- With the motivation to provide a computer-aided error correction application (Thompson,paragraph 14).
- The elements are all known but not combined as claimed. The technical ability exists to combine the elements as claimed and the results of the combination are predictable. When combined, the elements perform the same function as they did separately.

41. As per claim 29, Fogel in view of Thompson teaches the method of claim 28 as described above.

Fogel does not explicitly teach the method wherein enhancing the data comprises scrubbing the data to incorporate changes in the spelling of words comprising the gathered data as compared to the data descriptive of details of a long term care transaction.

However, Thompson further teaches the method wherein enhancing the data comprises scrubbing the data to incorporate changes in the spelling of words comprising the gathered data as compared to the data descriptive of details of a long term care transaction (figure 3, spell check and correcting and paragraphs 471 – 480).

It would have been obvious to one of ordinary skill in the art at the time of the invention to add this feature to Fogel. One of ordinary skill in the art at the time of the invention would have added this feature

- With the motivation to provide a computer-aided error correction application (Thompson, paragraph 14).
- The elements are all known but not combined as claimed. The technical ability exists to combine the elements as claimed and the results of the combination are predictable. When combined, the elements perform the same function as they did separately.

42. **Claim 31** is rejected under 35 U.S.C. 103(a) as being unpatentable over Fogel et al., U.S. Patent Number 6,542,905 in view of Guyan et al., U.S. Pre-Grant Publication 2003/ 0145124.

43. As per claim 31, Fogel teaches the method of claim 1 as described above.

Fogel does not explicitly teach further teaches the method wherein structuring the gathered data and the data relating details of the long term care transaction according to risk quotient criteria comprises processes based upon Boolean logic.

However, Guyan further teaches the method wherein structuring the gathered data and the data relating details of the long term care transaction according to risk quotient criteria comprises processes based upon Boolean logic (paragraphs 176, 177 with example; paragraphs 189 - 192 with example; paragraphs 227 - 230 with example).

It would have been obvious to one of ordinary skill in the art at the time of the invention to add this feature to Fogel. One of ordinary skill in the art at the time of the invention would have added this feature

- With the motivation to store, retrieve and manipulate data using a plurality of functions (Guyan, Abstract).
- The elements are all known but not combined as claimed. The technical ability exists to combine the elements as claimed and the results of the combination are predictable. When combined, the elements perform the same function as they did separately.

Response to Arguments

44. Applicant's arguments, see 35 U.S.C. 101 rejection, filed 5/18/2010, with respect to claims 1 – 16 and 18 – 32 have been fully considered and are persuasive. The 35 U.S.C. 101 rejection of claims 1 – 16 and 18 – 32 has been withdrawn.

45. Applicant's arguments filed 5/18/2010 have been fully considered but they are not persuasive.

- Claim Rejections – 35 U.S.C. 102
    - The Applicant states, "Should the Examiner maintain the rejection, Applicant respectfully request that the Examiner provide specific citations and explanations describing how each and every element of the pending claim are allegedly anticipated by the cited reference, providing indications of specific, alleged correspondences between claim elements and cited portions of the applied reference; more specifically, Applicant respectfully requests additional clarification as to how and specifically why the Examiner believes "Structuring the gathered data and the data relating details of the long term care transaction according to risk quotient criteria (column 5, lines 31 – 39where the database provides structure and column 21 lines 11 – 36)," described in Fogel, is allegedly analogous to and ore/ anticipates "structur[ing] … the gathered data according to risk criteria and the data relating details of the long term care transaction," as recited in independent claim1, 33 and 34."
        - Please see the updated rejections for 1, 33, and 34. The Examiner is interpreting the claims in light of the specification and is not "mischaracterized the language of the claim element(s)" as the Applicant alleges. Broad terms such as gathering and structuring are given the broadest reasonable interpretation absent any controlling definition.
        - From the previous Office Action dated 11/19/2009

- The Examiner has interpreted the claim language according to the specification. Except for Page 19, lines 1 – 4, the Applicant's specification mentions data structuring with regard to the multiple ways data can be stored. Not having any further guidance, and reading broadly in light of the specification, the data structuring step is the gathering of relevant data into a database. The Examiner has added additional references to help with the rejection.
- The Examiner notes that there is no definition of "risk quotient" found within the specification. Page 5, lines 24 and 25 describes a risk quotient as "Risk Quotient: Risk Quotient refers to a quantitative value of an amount of Risk, a Risk Quotient **can be** based upon a weighted algorithm applied to the Risk criteria and informational artifacts." (emphasis added) The can be phrase implies other potential risk quotient values are applicable.
    - However, the Examiner has added an additional citation showing a weighted risk score.

- Claim Rejections – 35 U.S.C. 103
    - The Applicant's arguments are general allegations of patentability and are therefore not persuasive for the reasons described above.

The Examiner has carefully reviewed the Applicant's specification. The Examiner notes the broad nature of the language found within the specification and the absence of specific or

potentially limiting examples. The Examiner suggests that the Applicant consider all options before proceeding.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NEAL R. SEREBOFF whose telephone number is (571)270-1373. The examiner can normally be reached on Mon thru Thur from 7:30am to 5pm, with 1st Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Morgan can be reached on (571) 272-6773. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Neal R Sereboff/
Examiner
Art Unit 3626